

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO:196/2001  
DATED THE 20TH FEB, 2002**

**CORAM:HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)**

1. Uttam Maruti Gunjal
2. Devabhai M Rathod
3. Ayodhyaprasad S Trivedi
4. Babhubhai C Parmar
5. Bamboo Budhas
6. R.B.Solanki
7. Jayantilal N
8. Chanderbhan Tiwari
9. Rampyare R Verma
10. Shailesh Kanchanpuri
11. Shankar N Lakkapatri
12. Ramesh V Mistry
13. Prakashgiri Sagar
14. Madhavi Garkar
15. Dattatray S
16. Rajnikant R Chawan
17. Vimal Rokade
18. Chandrakant Bhatakande
19. Nasimulla M
20. M.J.Parmar
21. Anita Y Shirgan
22. Hamid Khan
23. Dipsinh K Parmar

... Applicants

All applicants working as Non-Matric  
Clerks, Divisional Officer, Bombay  
Division, Western Railway, Bombay  
Central, Bombay - 400 008.

By Advocate Shri G.S.Walia

V/s.

1. Union of India,  
through General Manager,  
Western Railway,  
Churchgate,  
Bombay - 400 020.
2. Divisional Railway Manager,  
Bombay Division, DRM Office,  
Bombay Central,  
Bombay - 400 008.
3. Shri Ramdas C Mahida
4. Shri Rajengra V Badgujar
5. Shri Shailendra Singh

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6. Shri Sagayam Devdas
7. Shri Chadrashekar S Naidu
8. Shri Vijay Baburao Tayade
9. Shri Meenakshi Sundaram D
10. Shri Rajesh C Mistry
11. Shri Ramnarayan Nathuram
12. Smt.Sandhya S Tillu
13. Smt.Laxmi R Dhuri
14. Smt.Bhavana Shivdas Naikl
15. Shri Pankaj Jaisingh
16. Shri Palani Veeramani
17. Shri Girish B Barot
18. Shri Vijay Shamrao D
19. Shri Khurshet M Shaikh
20. Shri Armanulla
21. Shri Somnath R Waugh
22. Shah Khairul Basheer
23. Shri Shaikh Mohd. Irshad
24. Shri Motilal Jagdish Kelvan
25. Shri Achary Tarun
26. Shri Ravindra H Kadam
27. Shri Shirish K Paneria

... Respondents

R-3 to 27 all working under  
Respondent No.2

By Advocate Shri V.S.Masurkar

(ORAL)(ORDER)

Per Smt.Shanta Shastry, Member(A)

After opening the arguments and arguing for some time on merits, the learned counsel for applicant submits that he wants to withdraw the OA tD file a fresh OA to which we are not agreeable. We therefore proceed on merits.

2. A selection was held for promotion to the post of Junior Clerk in the payscale of Rs.2750-4450. The written test was conducted on 27/7/2000. The results were declared on 9/2/2001 giving the names of those who had qualified for appearing in the Viva Voce Test. The applicants' names did not appear in the aforesaid list. Thereafter, the viva vove was held between 20th and 23rd March, 2001 and final results were declared on 25/4/2001. The applicants, finding no place in the final panel have approached this Tribunal to quash and

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set aside the impugned list of 9/2/2001 of those who had qualified for the viva voce and to direct respondents to hold a proper selection and then declare the results afresh.

3. It is the case of the applicants that the respondents had cancelled the selection vide letter dated 11/1/2001 and it is therefore improper on their part to have published results of the written test after the cancellation of the entire selection. The applicant has further assailed the order of 9/2/2001 on certain technical grounds namely according to them no objective type of questions were included in the written test as according to the rules 50% of questions as far as possible should be objective type. Further the applicants were made to write their names on the answer books disclosing their identity and their designation. According to the rules, the answer papers were to be renumbered and confidential numbers were to be given thereupon. Another objection taken is that the pre-requisite of any selection proceedings is that the selection committee has to be appointed first. In the present case, the selection committee had been appointed after holding of the written test for conducting the interview. Some persons according to the applicant were given grace marks without the approval of the selection committee which was not actually existing at the time of holding of the written test.

4. The respondents have contested the arguments of the applicants. According to them the letter of 11/1/2001 whereby the selection is said to have been cancelled was a fake letter and this was discussed and the matter was heard by Tribunal on 19/3/2001. Infact, the person who is said to

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have signed that letter was present before the Tribunal and confirmed that he had not signed such a letter. Even the Tribunal found from a cursory look that there was no evidence of the cancellation of the selections. Therefore the results were rightly announced by the respondents.

5. As regards the names written on the answer books, the respondents have submitted that no doubt the names were written on the top sheet of the answer book, however, thereafter after coding, decoding the answer books before those answer books are handed over to Evaluating Authority and the top sheets are kept separately in a sealed cover to avoid any malpractices. It has been further submitted that before processing the selection, the selection committee is formed and the members of the said committee evaluate the answer sheets. They have denied that the selection committee did not exist on the date of written test. They have also denied grant of any grace marks to any incumbents. Infact, according to them 650 candidates had appeared in the test.

6. According to them the selection was carried out as per procedure and rules laid down. The applicant failed in the written test and therefore they were not eligible to appear in the interview. The applicants submit that they had protested before the authorities immediately after the written test about the irregularities committed. The respondents have also submitted that according to para-219 of IREM, particularly para-C of the same "in the written test if any held as part of the selection for promotion to higher grade selection post in a category objective type of question may be set for about 50% of the total marks for the written

test. It is only for the higher grades and that too 50% is flexible. All the same they had set an objective tupe of question paper and there is no violation of prescribed norms of Railway Board.

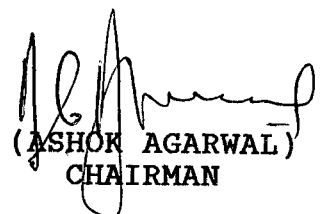
7. The learned counsel for the applicant only reiterated the stand. Further a point which was not there in the pleadings was taken up by the learned counsel stating that the post for which the selection was held was not required to be filled on the basis of selection as a certain percentage of posts had to be filled on the basis of seniority cum fitness. This point is not taken in the pleadings.

8. We have heard the learned counsel on both sides and have given our careful consideration to the pleadings. We have also perused the original record pertaining to the results of the written test and viva voce and the final results. In our considered view, the applicants have failed in the written test. They have no case whatsoever. Even though they have raised the objections regarding the irregularities in selection, in our view the respondents have explained the objections satisfactorily. These objections therefore do not hold good.

9. We therefore hold that the OA being devoid of merits is not maintainable. Accordingly the OA is dismissed without any order as to costs.



(SMT. SHANTA SHASTRY)  
MEMBER(A)

  
(ASHOK AGARWAL)  
CHAIRMAN

abp